

SENATE BILL No. 362

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37; IC 36-2-13-19.

Synopsis: County public safety fee. Authorizes a county to create a county public safety fee, and requires a court to collect the fee from every person convicted of a crime. Requires the court to set the fee based on a person's ability to pay, and provides that the fee must be at least \$50 and not more than \$200. Provides that the fee must be deposited in the county public safety fund and may be appropriated by the county fiscal body for public safety purposes.

Effective: July 1, 2014.

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January 14, 2014, read first time and referred to Committee on Local Government.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 362

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2014]: **Sec. 33. (a) This section applies to criminal actions.**
- 4 **(b) The clerk shall collect the county public safety fee set by the**
- 5 **court if:**
- 6 **(1) the county has adopted an ordinance requiring the court**
- 7 **to collect the county public safety fee; and**
- 8 **(2) the person has been convicted of an offense in the county.**
- 9 **(c) The court shall set a fee under this section of at least fifty**
- 10 **dollars (\$50) and not more than two hundred dollars (\$200). In**
- 11 **determining the amount of the fee, the court shall consider the**
- 12 **person's ability to pay.**
- 13 SECTION 2. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,
- 14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2014]: **Sec. 2. (a) The clerk of a circuit court shall distribute**
- 16 **semiannually to the auditor of state as the state share for deposit in the**



homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) The following:
 - (A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
 - (B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
 - (C) This clause applies after June 30, 2013, and before July 1,



1 2015. For a county not operating under the state's automated
 2 judicial system, five dollars (\$5) of the automated record
 3 keeping fee (IC 33-37-5-21) not distributed under subsection
 4 (a).

5 (c) The clerk of a circuit court shall distribute monthly to the county
 6 auditor the following:

7 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 8 interdiction, and correction fees collected under
 9 IC 33-37-4-1(b)(5).

10 (2) Seventy-five percent (75%) of the alcohol and drug
 11 countermeasures fees collected under IC 33-37-4-1(b)(6),
 12 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

13 The county auditor shall deposit fees distributed by a clerk under this
 14 subsection into the county drug free community fund established under
 15 IC 5-2-11.

16 (d) The clerk of a circuit court shall distribute monthly to the county
 17 auditor one hundred percent (100%) of the late payment fees collected
 18 under IC 33-37-5-22. The county auditor shall deposit fees distributed
 19 by a clerk under this subsection as follows:

20 (1) If directed to do so by an ordinance adopted by the county
 21 fiscal body, the county auditor shall deposit forty percent (40%)
 22 of the fees in the clerk's record perpetuation fund established
 23 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
 24 county general fund.

25 (2) If the county fiscal body has not adopted an ordinance
 26 described in subdivision (1), the county auditor shall deposit all
 27 the fees in the county general fund.

28 (e) The clerk of the circuit court shall distribute semiannually to the
 29 auditor of state for deposit in the sexual assault victims assistance
 30 account established by IC 5-2-6-23(h) one hundred percent (100%) of
 31 the sexual assault victims assistance fees collected under
 32 IC 33-37-5-23.

33 (f) The clerk of a circuit court shall distribute monthly to the county
 34 auditor the following:

35 (1) One hundred percent (100%) of the support and maintenance
 36 fees for cases designated as non-Title IV-D child support cases in
 37 the Indiana support enforcement tracking system (ISETS) or the
 38 successor statewide automated support enforcement system
 39 collected under IC 33-37-5-6.

40 (2) The percentage share of the support and maintenance fees for
 41 cases designated as Title IV-D child support cases in ISETS or the
 42 successor statewide automated support enforcement system



collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as



1 follows:

2 (1) The clerk shall distribute one hundred percent (100%) of the
3 garnishee service fees collected in a circuit, superior, county, or
4 probate court to the county auditor for deposit in the county
5 general fund.

6 (2) The clerk shall distribute one hundred percent (100%) of the
7 garnishee service fees collected in a city or town court to the city
8 or town fiscal officer for deposit in the city or town general fund.

9 (l) The clerk of the circuit court shall distribute semiannually to the
10 auditor of state for deposit in the home ownership education account
11 established by IC 5-20-1-27 one hundred percent (100%) of the
12 following:

13 (1) The mortgage foreclosure counseling and education fees
14 collected under IC 33-37-5-32 (before its expiration on January
15 1, 2015).

16 (2) Any civil penalties imposed and collected by a court for a
17 violation of a court order in a foreclosure action under
18 IC 32-30-10.5.

19 (m) This subsection applies to a county that is not operating under
20 the state's automated judicial system. The clerk of a circuit court shall
21 distribute monthly to the county auditor the following part of the
22 automated record keeping fee (IC 33-37-5-21) not distributed under
23 subsection (a) for deposit in the clerk's record perpetuation fund:

24 (1) Twenty percent (20%), before July 1, 2013, and after June 30,
25 2015.

26 (2) Two dollars (\$2) of each fee collected, after June 30, 2013,
27 and before July 1, 2015.

28 (n) The clerk of a circuit court shall distribute semiannually to the
29 auditor of state one hundred percent (100%) of the pro bono legal
30 services fees collected before July 1, 2017, under IC 33-37-5-31. The
31 auditor of state shall transfer semiannually the pro bono legal services
32 fees to the Indiana Bar Foundation (or a successor entity) as the entity
33 designated to organize and administer the interest on lawyers trust
34 accounts (IOLTA) program under Rule 1.15 of the Rules of
35 Professional Conduct of the Indiana supreme court. The Indiana Bar
36 Foundation shall:

37 (1) deposit in an appropriate account and otherwise manage the
38 fees the Indiana Bar Foundation receives under this subsection in
39 the same manner the Indiana Bar Foundation deposits and
40 manages the net earnings the Indiana Bar Foundation receives
41 from IOLTA accounts; and

42 (2) use the fees the Indiana Bar Foundation receives under this



subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

(o) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the county public safety fee collected under IC 33-37-5-33. The county auditor shall deposit the proceeds in the county public safety fund described in IC 36-2-13-19.

SECTION 3. IC 33-37-7-8, AS AMENDED BY P.L.136-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).



(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred



- 1 percent (100%) of the following:
- 2 (1) The public defense administration fee collected under
- 3 IC 33-37-5-21.2.
- 4 (2) The DNA sample processing fees collected under
- 5 IC 33-37-5-26.2.
- 6 (3) The court administration fees collected under IC 33-37-5-27.
- 7 (h) The clerk of a city or town court shall semiannually distribute to
- 8 the auditor of state for deposit in the judicial branch insurance
- 9 adjustment account established by IC 33-38-5-8.2 one hundred percent
- 10 (100%) of the judicial insurance adjustment fee collected under
- 11 IC 33-37-5-25.
- 12 (i) The clerk of a city or town court shall semiannually distribute to
- 13 the auditor of state for deposit in the state general fund seventy-five
- 14 percent (75%) of the judicial salaries fee collected under
- 15 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
- 16 percent (25%) of the judicial salaries fee collected under
- 17 IC 33-37-5-26. The funds retained by the city or town shall be
- 18 prioritized to fund city or town court operations.
- 19 (j) The clerk of a city or town court shall distribute semiannually to
- 20 the auditor of state one hundred percent (100%) of the pro bono legal
- 21 services fees collected before July 1, 2017, under IC 33-37-5-31. The
- 22 auditor of state shall transfer semiannually the pro bono legal services
- 23 fees to the Indiana Bar Foundation (or a successor entity) as the entity
- 24 designated to organize and administer the interest on lawyers trust
- 25 accounts (IOLTA) program under Rule 1.15 of the Rules of
- 26 Professional Conduct of the Indiana supreme court. The Indiana Bar
- 27 Foundation shall:
- 28 (1) deposit in an appropriate account and otherwise manage the
- 29 fees the Indiana Bar Foundation receives under this subsection in
- 30 the same manner the Indiana Bar Foundation deposits and
- 31 manages the net earnings the Indiana Bar Foundation receives
- 32 from IOLTA accounts; and
- 33 (2) use the fees the Indiana Bar Foundation receives under this
- 34 subsection to assist or establish approved pro bono legal services
- 35 programs.
- 36 The handling and expenditure of the pro bono legal services fees
- 37 received under this section by the Indiana Bar Foundation (or its
- 38 successor entity) are subject to audit by the state board of accounts. The
- 39 amounts necessary to make the transfers required by this subsection are
- 40 appropriated from the state general fund.
- 41 **(k) The clerk of a city or town court shall distribute monthly to**
- 42 **the county auditor one hundred percent (100%) of the county**



1 public safety fee collected under IC 33-37-5-33. The county auditor
2 shall deposit the proceeds in the county public safety fund
3 described in IC 36-2-13-19.

4 SECTION 4. IC 36-2-13-19 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2014]: Sec. 19. (a) The legislative body of a county may adopt an
7 ordinance:

8 (1) requiring the court to collect a county public safety fee
9 from every person convicted of a crime; and

10 (2) establishing a county public safety fund to receive the
11 county public safety fee.

12 Money in the county public safety fund may be used only to fund
13 programs, systems, and organizations described in IC 6-3.5-1.1-25.
14 Money in the fund does not revert to the county general fund or to
15 the state general fund.

16 (b) The county public safety fee must be at least fifty dollars
17 (\$50) and not more than two hundred dollars (\$200), with the exact
18 amount being determined by the sentencing court. In determining
19 the amount of the fee, the court shall consider the person's ability
20 to pay.

21 (c) Money in the county public safety fund may be spent only by
22 appropriation by the county fiscal body and only for the purposes
23 described in subsection (a).

